

10/054,712  
APBI-P08-317

16, 1993 (abandoned); U.S. Ser. No. 09/302,629 is also a continuation-in-part of U.S. Ser. No. 08/196,043 filed Feb. 11, 1994 (abandoned), which is a continuation-in-part of U.S. Ser. No. 08/179,748 filed Jan. 7, 1994 (abandoned), which is a continuation-in-part of U.S. Ser. No. 08/092,977 filed Jul. 16, 1993 (abandoned), which is a continuation-in-part of U.S. Ser. No. 08/017,931 filed Feb. 12, 1993 (abandoned). The contents of each of these applications is hereby incorporated by referenced into the present disclosure.

### REMARKS

A typographical error was made on the transmittal for the above-referenced patent application at the time of filing, indicating the present application is a continuation of 09/302,609. The correct priority claim is from U.S. Ser. No. 09/302,629, a fact which Applicants assert can be readily ascertained from the copy of the declaration from the parent case (ultimately U.S. Ser. No. 08/292,597) which was filed with the application. Applicants submit that this error was made without any deceptive intent

This preliminary amendment should **not** be treated constructively as a petition under 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. **120**, **121**, or **365(e)** for the benefit of a prior filed application. Applicants respectfully submit that the reference to U.S. Ser. No. 09/302,629 on the transmittal, although incorrect due to a typographical error, constitutes the *reference* required under 1.78(a)(2). Applicants are submitting this preliminary amendment in lieu of an application data sheet to complete the formalities of 1.78(a)(2).

For the convenience of the Examiner, a copy of the submitted declaration submitted at the time of filing is enclosed herewith.

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Applicants believe no fees are due, and, should it be determined that fees are due, Applicants respectfully request that the Examiner contact the undersigned for authorization to charge any fees that may be due. Please direct any questions arising from this submission to the undersigned at (617) 951-7739.

Respectfully Submitted,

Date: May 7, 2003

**Customer No: 28120**  
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Matthew P. Vincent  
Reg. No: 36,709



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ARIAD 317

I hereby certify that this paper is being deposited with the United States Postal Service "First Class Mail" on the date indicated below and is addressed to the Comm. of Patents and Trademarks, Washington, DC 20231

Signed \_\_\_\_\_  
Date \_\_\_\_\_

COPY

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "REGULATED APOPTOSIS" the specification of which

- [ ] is attached hereto  
[X] was filed on August 18, 1994 as Application Serial No. 08/292,597.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, CFR 1.56(a).

I hereby claim foreign priority benefits under Title 35, USC 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

| Number         | Country        | Date Filed | Priority Claimed |
|----------------|----------------|------------|------------------|
| PCT/US94/01617 | All designated | 2/14/94    | Yes              |
| PCTUS94/08008  | All designated | 7/18/94    | Yes              |

I hereby claim the benefit under Title 35, USC 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, USC 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulation, 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Appln. Ser. No. | Filing Date    | Status  |
|-----------------|----------------|---------|
| 08/093,499      | 16 July 1993   | Pending |
| 08/179,143      | 7 January 1994 | Pending |

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

David L. Berstein, Reg. No. 31,235  
ARIAD Pharmaceuticals, Inc.  
26 Landsdowne Street  
Cambridge, Massachusetts 02139  
617-494-0400 Ext. 266

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor Gerald R. Craftree Date 10-20-94  
Inventor's signature Gerald R. Craftree  
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Full name of second inventor Stuart L. Schreiber Date 10-31-94  
Inventor's signature Stuart L. Schreiber  
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Full name of third inventor David M. Spencer Date 10-25-94  
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Full name of third inventor Thomas J. Wandless Date 31 X 94  
Inventor's signature Thomas J. Wandless  
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Full name of third inventor Peter Belshaw Date 11-2-94  
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SOMERVILLE MA 02147 RD#

Attorney's Docket Number: APV-317.03  
(Formerly ARIAD 317C)

Declaration, Petition and Power of Attorney For Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

***REGULATED APOPTOSIS***

the specification of which was filed in the U.S. Patent and Trademark Office on: August 18, 1994,  
as U.S. Serial Number 08/292,597.

I do not know and do not believe that the subject matter of this application was ever known or used in the United States before my invention thereof or patented or described in any printed publication in any country before my invention thereof or more than one year prior to the date of this application, and that said subject matter has not been patented or made the subject of an issued inventor's certificate in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months prior to the date of this application; that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, that no application for patent or inventor's certificate on the subject matter of this application has been filed by me or my representatives or assigns in any country foreign to the United States, except those identified below, and that I have reviewed and understand the contents of the specification, including the claims as amended by any amendment referred to herein.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

\* \* \* \* \*

**PRIORITY CLAIM**

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

Check one:  no such applications have been filed.  
 such applications have been filed as follows

| (Application Serial No.)                      | (Filing Date)                            | (Status)                     |
|---|--|------------------------------|
| <u>08/179,748</u><br>(Application Serial No.) | <u>07 January 1994</u><br>(Filing Date)  | <u>ABANDONED</u><br>(Status) |
| <u>08/093,499</u><br>(Application Serial No.) | <u>16 July 1993</u><br>(Filing Date)     | <u>ABANDONED</u><br>(Status) |
| <u>08/092,977</u><br>(Application Serial No.) | <u>16 July 1993</u><br>(Filing Date)     | <u>ABANDONED</u><br>(Status) |
| <u>08/017,931</u><br>(Application Serial No.) | <u>12 February 1993</u><br>(Filing Date) | <u>ABANDONED</u><br>(Status) |

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

|                    |                         |                      |                   |
|--------------------|-------------------------|----------------------|-------------------|
| Donald W. Muirhead | Reg. No. 33,978         | Charles H. Cella     | Reg. No. 38,099   |
| Beth E. Arnold     | Reg. No. 35,430         | John C. Gorecki      | Reg. No. 38,741   |
| Matthew P. Vincent | Reg. No. 36,709         | Edward J. Kelly      | Reg. No. 38,936   |
| Isabelle M. Clauss | Reg. No. (see attached) | Sayoko Blodgett-Ford | Reg. No. 40,516   |
|                    |                         | Anita Varma          | Reg. No. P-43,221 |

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Direct Telephone Calls to: Matthew P. Vincent, Ph.D. (617) 832-1000

Wherefore I petition that letters patent be granted to me for the invention or discovery described and claimed in the attached specification and claims, and hereby subscribe my name to said specification and claims and to the foregoing declaration, power of attorney, and this petition.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor

Gerald Crabtree

Inventor's signature

Date

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Full name of fourth inventor

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Inventor's signature

Date

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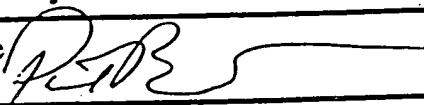
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Full name of fifth inventor

Peter Belshaw

Inventor's signature



Date

2/17/98

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